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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/126,622	07/30/1998	CORMAC HERLEY	10970294-1	9131

7590

11/21/2003

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EXAMINER

VU, NGOC YEN T

ART UNIT

PAPER NUMBER

2612

DATE MAILED: 11/21/2003

16

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/126,622

Applicant(s)

HERLEY, CORMAC

Examiner

Ngoc-Yen T. Vu

Art Unit

2612

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see the attached response from the Examiner.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

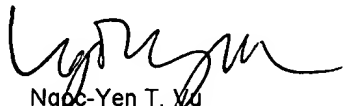
Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 11-17, 19-25, 27-32

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____


Ngoc-Yen T. Vu
Primary Examiner
Art Unit: 2612

Response to Arguments

1. Applicant's arguments filed 10/31/2003 have been fully considered but they are not persuasive.

With respect to the Weldy reference, the Applicants argue that the Weldy patent is not directed to the efficient storage of image information generated using a first quantizing step and a second quantizing step independent of the first quantizing step, whereby space in a secondary storage area of an image storage device is released if insufficient space is available in a primary storage area of the image storage device to store the first compressed image data set. The Examiner never alleged that the Weldy reference was used to show that space in a secondary storage area of an image storage device is released if insufficient space is available in a primary storage area of the image storage device to store the first compressed image data set. The above noted claimed limitations of releasing space in the secondary storage area were taught in the Wakui reference. The Weldy reference was used to show the steps of generating a first compressed image data set and a second compressed image data set using a first quantizing step and a second quantizing step independently of the first quantizing step.

With respect to the Saito reference, the Applicants argue that the Saito patent does not disclose or suggest a process employing a second quantizing step independent of the first quantizing step. The Applicant further argues that the Saito fails to overcome the absence of teaching or suggestion in the Weldy patent to release space in a second storage area of an image storage device. In response, the Examiner never alleged that Saito teaches employing a second quantizing step independent of the first quantizing step or releasing space in a second storage

area of an image storage device if insufficient space is available in the primary storage area. The Saito reference was used to show a digital camera, which is capable of efficiently changing quantity of compressing image data in the respective stages by changing quantization tables for the respective stages. The Weldy reference was used to show a process employing a second quantizing step independent of the first quantizing step, and the Wakui reference was used to show releasing space in a second storage area of an image storage device.

With respect to the Wakui reference, the Applicants argue that the Wakui patent teaches away from the presently claimed invention because this patent fails to teach or suggest releasing space in a second storage area of an image storage device if insufficient space is available in a primary storage area of the image storage device to store the first compressed image data set. The Examiner respectfully disagrees. Wakui specifically teaches that image data is primarily recorded in the IC memory card 31. Wakui also teaches that if the IC card 31 is not correctly connected to the connector or if there is not enough remaining storage capacity of the image data, the image data captured by the camera is stored in the image flash memory (20) (col. 8 lines 51-60; col. 14 lines 9-13). In order to increase the utilization efficiency of the image flash memory (20), Wakui further teaches that the recorded image in the image flash memory (20) can be selectively erased (col. 1 lines 44-46; col. 2 lines 60-64; col. 3 lines 56-58; col. 17 lines 38-40; col. 18 lines 12-44; col. 21 lines 14-19). With respect to the Wakui reference, the Applicants further argue that "Wakui does not release space of a secondary storage area which had been allocated to store a second compressed image data set to accommodate storage of at least a first compressed image data set associated with the given image." The Examiner notes that the

claimed language of claims 11-17, 19-25 and 27-32 only broadly claims "releasing space in a second storage area of the image storage device if insufficient space is available in a primary storage area of the image storage device to store the first compressed image data set."


In view of the above, the Examiner believes that the broadest interpretation of the present claimed invention does in fact read on the cited references for at least the reasons discussed above, and as stated in the detailed final Office Action as mailed on 07/31/2003.

Conclusion

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc-Yen T. Vu whose telephone number is 703-305-4946. The examiner can normally be reached on Mon. – Fri. from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy R. Garber can be reached on 703-305-4929. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.


NGOC-YEN VU
PRIMARY EXAMINER
Art Unit 2612